

LABOR LAW

Matters that need to be reviewed in order to comply with the Amendment to the Federal Labor Law.

On November 30, 2012, an amendment (the "**Amendment**") to the Federal Labor Law (the "**Law**"), was published in the Federal Official Gazette by means of which several provisions of the Law were amended, added and repealed.

The Amendment became effective as of December 1, 2012, thus, with some exceptions, the provisions are now obligatory.

Consequently, it is important that companies, organizations and in general, all employers (the "**Employer(s)**") identify the practical aspects of the Amendment that may immediately impact their operation in order to take the actions that are necessary to comply with the Amendment, and avoid any possible fines and/or labor conflicts.

Below please find a list of the main aspects that Employers should consider:

1. Outsourcing/Insourcing.

- Review, and if applicable, modify the service agreements entered into with outsourcing companies and other subcontractors, such as those entered for the services of security, catering, cleaning and personnel. This is in order to verify that the new requirements established by the Amendment for this type of agreements are met.
- Develop and implement policies for further execution of outsourcing agreements in order to mitigate the risks of: (a) being considered as the employer of the outsourcing company employees, and; (b) the risk of having the employees of the outsourcing company demand the payment of the profit sharing generated by the Employer.
- For those companies that operate with an entity exclusively to hire employees, it is necessary to review such structure (known as "Insourcing"), to identify possible risks and/or implement measures and strategies to mitigate same.

2. Labor Agreements and New Employment Relationships.

- Review and update the templates of the individual labor agreement in order to comply with the terms set in the Amendment. Among others, the issues that need to be updated and may need to be included are: the taxpayer identification number, type of labor contract, any amendment to the labor conditions, such as salary increase, amendments to the work shift, among others.
- Evaluate hiring new personnel by means of probationary period contracts (the so-called "30 day agreement" or the 6 month period, depending on the position), and if applicable, prepare the corresponding contracts.

- Define a policy to terminate the probationary period contracts.
- In order to implement the probationary period and initial traineeships contracts, the Employers are required to form the Productivity and Training Mixed Commission.
- Evaluate hiring new personnel by means of the seasonal contracts and/or initial traineeships (for 30 days or 6 months, depending on the position), and if applicable, prepare the corresponding agreements.

3. **Various Employer's Obligations.**

- Register employees before the National Fund for Employee Consumption ("FONACOT"). Employers will have until December 1st, 2013 to comply with this requirement.
- Work places with more than 50 employees are required to be adapted for disabled persons. Employers have 36 months to comply with this obligation as of December 1st, 2012.
- Review and update policies regarding women's work and policies for maternity and paternity leave. An example, policies for granting the new a paid five-day paternity leave upon the birth of a child or when adopting an infant should be develop and implemented.
- Evaluate recruitment processes in order to determine the existence of any discriminatory practices.
- Evaluate and restructure the procedures of termination of labor relationships in order to comply with the terms set in the Amendment to ensure that the Employer has the documents that are required in order to evidence the termination in the event of a labor conflict or trial.
- The Employers who hire employees based on a hourly wage, are required to ensure that the procedure of payment complies with the parameters established in the Amendment.
- Publish, in a visible place, the provisions of the regulations and Mexican Official Standards (NOM) regarding security, health and work environmental.
- Publish in a visible place the full text of the Collective Bargaining Agreement or Agreements governing the Employer-employee relation.
- Disclose to employees the information regarding the risks and dangers to which they are exposed.
- If the company has employees rendering services abroad, the company is required to comply with the guidelines established in the Amendment.

- In the event of termination or resignation by an employee who pays alimony which is discounted by the Employer, the Employer is required to give notice to the competent authority and the alimony creditors within 5 days of the termination date.
- Establish policies and programs to prevent harassment and sex discrimination.

4. **Other Aspects to be Considered.**

- Evaluate the terms of the in-house policies and internal shop rules in order to eliminate any practice that may be considered as harassment or discrimination by reason of disability, sexual preference or any other cause.
- Requesting a non-pregnancy certificate in order to hire a woman or to promote her is prohibited.
- Hiring persons younger than 14 years outside the family circle.
- Tolerating or allowing any sexual harassment or discriminatory actions at the workplace is prohibited.

The Amendment to the Law establishes additional obligations and dispositions regarding the work of women, mining and unions, among other matters. The purpose of this bulletin is to inform our clients about the aspects of the Amendment that should be reviewed immediately in order to mitigate labor conflicts and sanctions.

We would be pleased to provide you with our assistance in order that your companies comply with the new dispositions stated in the Amendment.

Our labor law specialist will be pleased to answer any questions or matters you may have regarding this Amendment.

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